

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:

Chapter 13  
Case No. 14-54039 SLJ

Gregory A. Del Carlo and  
Tracy L. Del Carlo,

OBJECTION TO CLAIM; NOTICE OF OPPORTUNITY FOR  
HEARING; CERTIFICATE OF SERVICE

CLAIMANT: **Louis S. Del Carlo**

Debtor(s) \_\_\_\_\_ / CLAIM NO: **13**

The Debtor object(s) to the allowance of the claim described as:

NAME & ADDRESS OF CLAIMANT (as set forth on Proof of Claim)

DOLLAR AMT

DATE FILED

Louis S. Del Carlo  
173 Mitchell Road  
Hollister, CA 95023

\$99,771.00

12/23/2016

The basis for the objection is that the claim attached hereto:

- \_\_\_\_ duplicates claim no. \_\_\_\_\_ filed on \_\_\_\_\_ by \_\_\_\_\_.
- \_\_\_\_ does not include a copy of the underlying judgment.
- \_\_\_\_ does not include a copy of the security agreement and evidence of perfection.
- \_\_\_\_ fails to assert grounds for priority.
- \_\_\_\_ does not include a copy of the assignment(s) upon which it is based.
- \_\_\_\_ appears to include interest or charges accrued after the filing of this case on \_\_\_\_\_.
- \_\_\_\_ is not timely filed.
- x is not being prosecuted by the real party in interest. Claimant passed away on March 20, 2017, and his surviving spouse was made aware of the requirement of FRCP Rule 17(a) that a successor must be substituted in as a real party in interest(see Docket No. 29 in Adversary Proceeding No. 16-5084, Louis Del Carlo v. Gregory Del Carlo).

The Objecting Party will ask the Court to enter an Order providing that the claim is:

- \_\_\_\_ allowed as a secured claim in the amount of: \$ \_\_\_\_\_.
- \_\_\_\_ allowed as an unsecured claim in the amount of: \$ \_\_\_\_\_.
- \_\_\_\_ allowed as a priority claim in the amount of: \$ \_\_\_\_\_.
- x disallowed in its entirety

**NOTICE IS HEREBY GIVEN**, pursuant to FRBP 3007 as modified by Local Rule 9014: 1) that any objection to the requested relief, or a request for hearing on the matter must be filed and served on the requesting party within twenty (21) days of mailing of the notice; 2) that a request for hearing or objection must be accompanied by any declarations or memoranda of law the party objecting or requesting wishes to present in support of its position; 3) that if there is not a timely objection to the requested relief or a request for hearing, the Court may enter an order granting the relief by default; and 4) that the initiating party will give at least ten (7) days written notice of hearing to the objecting or requesting party, and to any trustee or committee appointed in the case, in the event an objection or request for hearing is timely made.

Dated: 4/30/2018

/s/Stanley Zlotoff

Attorney for Debtors and Objecting Parties

DEBTOR(S') ADDRESS:  
Gregory and Tracy Del Carlo  
2007 Gypsy Avenue  
San Martin, CA 95046

300 S. First St. #215

San Jose, CA 95113

Telephone: (408) 287-5087

CERTIFICATE OF SERVICE

I am not less than 18 years of age and not a party to the within case. My business address is: 300 S. First Street #215, San Jose, CA 95113. I served this OBJECTION TO CLAIM; NOTICE OF OPPORTUNITY FOR HEARING by first-class United States Mail, postage pre-paid, at San Jose, California, on the date noted below and addressed to the Claimant above, and on those listed below. If entitled to notice, the Chapter 13 Trustee will receive such notice upon the electronic filing of this document. I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: 4/30/2018 San Jose, California.

/s/Stanley A. Zlotoff

\*

Stanley A. Zlotoff

Peter R. Spurzem, esq.

Pipal Spurzem & Liem, LLP, 350 Fifth Street, Hollister, CA 95023

\*Rev. 2/05